

July 05, 2018

EDWARD J. EMMONS, CLERK  
U.S. BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA



Signed and Filed: July 5, 2018

*Dennis Montali*

DENNIS MONTALI  
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

In re ) Bankruptcy Case  
DEBORAH A. WALES, ) No. 18-30492-DM  
aka DEBI WALES, ) Chapter 7  
Debtor. )

**ORDER DISAPPROVING REAFFIRMATION AGREEMENT**

This matter having been duly noticed was called for hearing on July 5, 2018. Debtor appeared. For the reasons stated orally on the record, the reaffirmation agreement between Debtor and Patelco Credit Union ("Creditor") with regard to a 2012 Honda Accord is DISAPPROVED.

Nevertheless, Debtor here indicated a willingness to enter into a reaffirmation agreement with Creditor, and this case is thus distinguishable from *In re Dumont*, 581 F.3d 1004 (9th Cir. 2009), where the debtor expressly elected not to reaffirm the debt and simply indicated an intent to retain the collateral while making monthly payments.<sup>1</sup> If the Creditor chooses to repossess

<sup>1</sup> In 2005, Congress amended 11 U.S.C. §§ 521(a)(2) and (6), as well as § 362(h), to provide that the automatic stay is lifted if an individual chapter 7 debtor does not indicate an intention to surrender or redeem collateral or reaffirm the debt. Chapter 7

1 the collateral despite Debtor's willingness to enter the  
2 reaffirmation agreement and Debtor's timely performance of the  
3 payment obligations on the underlying debt, Debtor may ask the  
4 court for injunctive or other relief.

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28 individual debtors cannot simply opt to "pay and drive." *Dumont*,  
581 F.3d at 1104.

ORDER DISAPPROVING REAFFIRMATION  
AGREEMENT FOLLOWING HEARING

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Court Service List

Deborah A. Wales  
2721 Clifford Ave  
San Carlos, CA 94070

Patelco Credit Union  
ATTN: Debra Jones  
5050 Hopyard Road  
Pleasanton, CA 94588

ORDER DISAPPROVING REAFFIRMATION  
AGREEMENT FOLLOWING HEARING